UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,223	12/03/2003	Peter J. Dronzek JR.	181-035.2	5170

7590 10/17/2006

ROBERT S. GORMAN, ESQ.
305 MADISON AVE.
SUITE 449
NEW YORK, NY 10165

EXAMINER	
AHMAD, NASSER	
ART UNIT	**PAPER NUMBER**
1772	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,223	DRONZEK, PETER J.	
	Examiner	Art Unit	
	Nasser Ahmad	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 8/3/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6986826 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Rejections Maintained

2. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Pedginski (5807632) for reasons of record made in the last Office action of May 2, 2006.

3. Claims 17- 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrou (5628858) in view of Tindall (4886680) for reasons of record made in the last Office action of May 2, 2006.

Response to Arguments

4. Applicant's arguments filed 8/3/2006 have been fully considered but they are not persuasive.

Applicant argues that the Pedginski reference is inapplicable over the present invention because "*the alleged teaching of a coated release side of a fluoropolymer film is nonanalogous to the several claimed aspects. First, it is important to note that the Pedginski patent pertains to a (limited use) release tape and label, and not a virtually permanent mounting device for the unlimited reuse with different labels over the course of time. A system utilizing Pedginski would not be able to maintain surface release*

integrity when subjected to the stresses of wear, cleaning, and infinite reuse over the course of time". These are not deemed to be convincing because the "limited use", "not virtually a permanent mounting device" are not found to be of positive limitation as they are directed to an intended use of the claimed product. Similarly, for the "system utilizing Pedginski would not be able to maintain surface release integrity" is also directed to an intended use of the claimed product and is not found to be of positive limitation.

In response to applicant's argument that "*unlike the present invention, the Pedginski release tape is coextruded with oriented layers and requires a backing. This distinction is also important because it is geared to providing the lowest cost, thinnest substantially linear low density polyethylene (LLDPE) layer that not only* ***cannot*** *withstand the aforementioned stresses, and requires a backing, unlike the solid fluoropolymer release film of the present invention*". These are not found to be persuasive because the invention, as claimed, does not preclude the presence of co-extruded layers. As for the "solid fluoropolymer release film of the present invention", said limitation could not be located in the claims and cannot be read thereinto for the purpose of avoiding the applied prior art of record. For "cannot withstand the aforementioned stresses", applicant should note that this is directed to an intended use of the claimed product and is not found to be a positive limitation.

Applicant also argues that "*it is significant to note that Pedginski teaches the coextrusion of thin layers that are not true fluoropolymer layers*". This is not deemed to be convincing because it is unclear as to what is defined by the phrase "true

fluoropolymer layers" and that said phrase cannot be read into the claims for avoiding the applied prior art.

Applicants' arguments are noted that "*Pedginski specifically instructs at best the limited use of (expensive) fluoropolymer as an additive to a primarily LLDPE resin. Because Pedginski merely relates to one-time use coatings, it teaches away from the present invention because the present invention specifically uses the opposite composition, namely a solid monolayer of fluoropolymer so as to provide the advantageous aspects of ruggedness and durability that would be beneficial to a permanent mounting device that would be reused indefinitely. Thus, the complete absence in Pedginski, of the use of a pure fluoroploymer monolayer is significant*". In response to the noted argument, applicant is informed that Pedginski teaches the structure of the self-adhesive laminate as claimed and the phrases "solid monolayer of fluoropolymer" or "pure fluoropolymer monolayer" cannot be read into the claims for the purpose of reading away from the applied prior art reference.

Applicant further argues that "*the Pedginski patent specifically teaches the coextrusion of thin layers, which is directly the opposite of the present invention which values a thick layer so as to provide the above mentioned durability and longevity. Clearly a limited use release tape could never be substituted for use in an environment where containers bearing releasable layers are subjected to scratching, repeated cleaning with industrial cleamers, and abrasion stresses*". These arguments have been responded to hereinbefore sections as being directed to intended use of the product and not found to be of positive limitation.

Applicant also argues that "*the Examiner has also rejected claims 17-23 under 35 U.S.C. 103(a) as allegedly being unpatentable over Petrou (U.S. Patnent No. 5,628,858) in view of Tindall (U.S. Patent No. 4,886,680). In response, it bears noting that neither Petrou nor Tindall contain any suggestion(s) that would be required in order fro one skilled in the art to combine these two patents. As such, it would be improper to combine these two references*". It is noted that applicant did not provide any reasons in support for the basis of the above argument and hence, no explanation is deemed necessary from the examiner.

It is further argued by the applicant that "*even if these two patents could be combined, each of the respective patents are simply inapplicable over the present invention. Specifically, the Petrou patent relates to the art of a coated release layer, specifically the art of silicone coating, and does not concern construction of a film. In direct contrast, the present invention relates to laminating a resin film, not coating a polypropylene layer with silicon*". In response Examiner would like to bring to applicant's attention that Petrou teaches a method of labeling or relabelling an object by providing a support layer laminated with an adhesive and that Tindall teaches that it would have been obvious to use a fluoropolymer as a support, with its inherent release property, without a release coating on the support. Applicant is also informed that one cannot argue the references individually where, as herein, the rejection is a combination of the references.

Applicant argues that "*as it pertains to the Tindall patent, it should be noted that the teachings of Tindall are wholly non-analogous over the present invention for at least several reasons. The Examiner has cited Col. 1, lines 40-49 of Tindall, but that portion*

of the Tindall text details that polytetrafluoroethylene (PTFE) has inherent characteristics that would be useful for making what is commonly described as a linerless roll of pressure sensitive adhesive. Tindall states that PTFE would be unlikely to be used as a base material for an adhesive label because of cost concerns, such that Tindall teaches instead not to use PTFE, but rather to use paper as a throw away liner (col. 1, line 52)". These are not found to be persuasive because, contrary to applicant's assertion, Tindall teaches the **expensive PTFE are unlikely to be used as base material for production of adhesive labels** but does not disclose that the PTFE would not be used as a support for labels.

In response to applicant's position that "*as seen on Table 1 on page 16 of the specification, the present invention is specifically tested so as to be different from such limited use layers by providing far greater durability and longevity when subjected to the harsh stresses of industrial cleaning, abrasion, etc.*", applicant is informed that said test are directed to cleaning of the layers and not the layers as claimed.

Furthermore, applicant argues that "*following the approach taught by Tindall, one apply an adhesive to one side of the PTFE which would be the top layer, while the adhesive on the other side would eventually be wound up on a roll to form a linerless roll. There simply is no mention of the concept of placing a label on the surface of the PTFE. Accordingly, there clearly is no teaching in either Petrou or Tindall that would lead a skilled artisan to combine these two teachings, and if combined, both clearly lead away from the claimed invention*". In response, applicant is informed that it is improper to

argue the references individually where, as herein, the references are combined to show that the claimed invention is deemed to be obvious.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention is anticipated or rendered obvious over the prior art of record as discussed above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nasser Ahmad 10/10/06
Primary Examiner
Art Unit 1772

N. Ahmad.
October 10, 2006.